

**Chapter 16-130 WAC
DIRECT SELLERS**

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WAC

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WAC 16-130-010 Purpose of this chapter. The purpose of this chapter is to implement RCW 15.130.400 by establishing rules relating to the issuance of licenses to operate as a direct seller and to establish the requirements that apply to direct sellers.

[Statutory Authority: RCW 15.30.120, 69.07.020, 69.10.055, and 16.49.025. WSR 20-17-020, § 16-130-010, filed 8/6/20, effective 9/6/20. Statutory Authority: RCW 69.04.345 and chapter 34.05 RCW. WSR 14-23-053, § 16-130-010, filed 11/17/14, effective 12/18/14.]

WAC 16-130-020 Definitions. (1) In addition to the definitions contained in this section, the definitions found in chapters 15.130 and 69.07 RCW, chapters 16-165, 16-167, and 246-215 WAC, and Title 21 of the Code of Federal Regulations may apply.

(2) For the purposes of this chapter, the following definitions apply:

"Department" means the department of agriculture.

"Direct seller" means an entity licensed by the department that receives prepackaged food from a food processor that is either licensed or inspected, or both, by a state or federal regulatory agency or the department and that delivers the food directly to consumers clients who only placed and paid for an order on the entity's website, as long as:

(a) The food is delivered by the entity without opening the processor's original packaging and without dividing it into smaller packages;

(b) There is no interim storage by the entity; and

(c) The food is delivered by means of vehicles that are equipped with either refrigeration or freezer units, or both, and that meet the requirements of rules authorized by this chapter.

"Director" means the director of the department of agriculture.

"Food handling area" means all premises and facilities utilized for food transport by a direct seller.

[Statutory Authority: RCW 15.30.120, 69.07.020, 69.10.055, and 16.49.025. WSR 20-17-020, § 16-130-020, filed 8/6/20, effective 9/6/20. Statutory Authority: RCW 69.04.345 and chapter 34.05 RCW. WSR 14-23-053, § 16-130-020, filed 11/17/14, effective 12/18/14.]

WAC 16-130-030 Direct seller license applications. (1) All direct sellers must be licensed annually by the department. Licenses expire on December 31st following issuance except that licenses issued during 2014 will not expire until December 31, 2015.

(2) Applications for new and renewal licenses must be submitted on the form provided by the department, and must include:

(a) A completed application form;

(b) The physical address of the business premises within the state of Washington of the direct seller where required records will be maintained;

(c) A current list of all leased, rented or owned vehicles, other than vehicles that are rented for less than forty-five days, intended for use within Washington state by the direct seller to deliver food; and

(d) An annual license fee of five thousand four hundred dollars.

(3) The department will not refund license fees after receipt of a direct seller license or renewal license application.

(4) Prior to licensing, the department may inspect the vehicles and food handling areas of the direct seller to determine them to be in compliance with the requirements of chapter 15.130 RCW and this rule.

(5) Until a license is issued by the department, direct sellers must comply with all applicable permitting requirements contained in food service establishment rules adopted by the state board of health and any local health jurisdiction.

(6) To obtain an application for a direct seller license, contact the department at:

Washington State Department of Agriculture
Food Safety Consumer Services Division
P.O. Box 42560
Olympia, WA 98504-2560
Phone: 360-902-1876
Fax: 360-902-2087
Website: <http://agr.wa.gov>.

[Statutory Authority: RCW 15.30.120, 69.07.020, 69.10.055, and 16.49.025. WSR 20-17-020, § 16-130-030, filed 8/6/20, effective 9/6/20. Statutory Authority: RCW 69.04.345 and chapter 34.05 RCW. WSR 14-23-053, § 16-130-030, filed 11/17/14, effective 12/18/14.]

WAC 16-130-040 Direct sell requirements. (1) The license or a copy of the license must be present in all vehicles and food handling areas utilized by the direct seller.

(2) Direct sellers must maintain all areas of vehicles utilized for food transportation and food handling areas in a sanitary manner. Vehicles and food handling areas must be kept clean and inspected each day by the direct seller.

(3) Direct sellers must keep records to document daily cleaning and sanitary inspections of vehicles and food handling areas. Records of daily vehicle inspections must be maintained with the vehicle for the previous thirty days. Food handling area inspection records and vehicle inspection records older than thirty days must be maintained by the direct seller at the direct seller's business premises for twelve months. Vehicle and package temperature logs must be maintained by the direct seller at the direct seller's business premises for twelve months.

(4) Direct sellers are required to protect food from contaminations while in transport.

(a) Food must be transported under conditions that protect food against physical, chemical and microbial contamination.

(b) Food must be protected against deterioration of the food and its container.

(c) Food must be kept in a temperature controlled environment to adequately protect the food from deterioration or degradation and to minimize microbial growth. Refrigerated food temperatures must be maintained at forty-one degrees Fahrenheit or below, and frozen food temperatures must be maintained at thirty-two degrees Fahrenheit or below at all times and a food labeled frozen by the food processor must be received frozen by the consumer.

(d) Ensure the separation of raw materials, including raw seafood, meat, poultry and raw fruits and vegetables in a fashion to avoid cross-contamination of other food products, particularly ready-to-eat foods.

(e) Raw materials may not come in direct contact with other food in the same container or in any other cross-contaminating circumstances.

(5) The direct seller must maintain the following records at the direct seller's business premises and make available for inspection by the department:

(a) A current list of all leased, rented or owned vehicles, other than vehicles that are rented for less than forty-five days, intended for use in Washington state by the direct seller to deliver food;

(b) All records of vehicles intended for use in Washington state rented for less than forty-five days for at least twelve months following the termination of the rental period;

(c) Temperature logs of all vehicles and packages in real time for all food while in transport from initial pickup to delivery;

(d) Consumer client lists indicating what products were purchased, when products were delivered, and location where the product was delivered to consumer client;

(e) Records of product purchases that are offered or sold to consumer clients that include manufacturer of product, distributor of product, date and time of receipt of product by direct seller, and date and time of delivery of product by direct seller; and

(f) Records indicating disposition of any products not sold or received by consumer clients.

(6) All records required under this section must be:

(a) Maintained so that the information they intend to convey is clear and understandable;

(b) Available to the department upon request at the direct seller's business premises or in a vehicle as applicable; and

(c) Retained at the direct seller's business premises for six months after the expiration of the license.

[Statutory Authority: RCW 15.30.120, 69.07.020, 69.10.055, and 16.49.025. WSR 20-17-020, § 16-130-040, filed 8/6/20, effective 9/6/20. Statutory Authority: RCW 69.04.345 and chapter 34.05 RCW. WSR 14-23-053, § 16-130-040, filed 11/17/14, effective 12/18/14.]

WAC 16-130-050 Inspections. (1) The department will conduct routine inspections of all vehicles, food handling areas, refrigeration equipment, and product packaging used by the direct seller.

(2) The department will conduct audits of all required records including cleaning and sanitary inspections, temperature logs, lists

of all leased, rented or owned vehicles, vehicle rental records, purchases, sales, and other food handling and sanitation records as appropriate.

(3) During an investigation, the department may sample food products transported by the direct seller for laboratory testing to ensure food is being handled and maintained in a safe and sanitary manner.

(4) The department may inspect the records, vehicles, food handling areas, refrigeration equipment, and product packaging used by a direct seller whenever the department has reason to believe the direct seller is in violation of the requirements of chapter 15.130 RCW or this chapter. Inspections will be made at reasonable times and, when possible, during regular business hours.

(5) The department will investigate any complaints against a direct seller for violations of chapter 15.130 RCW or this chapter, or for otherwise failing to maintain and distribute food in a safe and sanitary manner.

(6) The department may inspect records, vehicles, food handling areas, refrigeration equipment, and product packaging used by a direct seller in response to a food recall, foodborne illness outbreak, consumer complaint, other public health emergency, or when required by federal, state or local regulation. In such situations, the direct seller will provide to the department its customer list and all known contact information. The direct seller must notify customers of a recall, foodborne illness outbreak, or other relevant event when directed by the department.

[Statutory Authority: RCW 15.30.120, 69.07.020, 69.10.055, and 16.49.025. WSR 20-17-020, § 16-130-050, filed 8/6/20, effective 9/6/20. Statutory Authority: RCW 69.04.345 and chapter 34.05 RCW. WSR 14-23-053, § 16-130-050, filed 11/17/14, effective 12/18/14.]

WAC 16-130-060 Suspension, revocation, and denial of registrations. (1) A direct seller license and applications for direct seller licenses are governed by the procedures set forth in chapter 34.05 RCW.

(2) The director may deny, suspend, or revoke a direct seller application or license if it is determined that an applicant or direct seller has committed any of the following acts:

(a) Refused, neglected, or failed to comply with the provisions of chapter 15.130 RCW, the rules adopted under this chapter, or any order issued by the director;

(b) Refused, neglected, or failed to keep and maintain required records;

(c) Refused the department access to required records;

(d) Refused the department access to any portion or area of vehicles, food handling areas, refrigeration equipment, and product packaging used by a direct seller; or

(e) Failure to submit an application for a license meeting the requirements of this chapter or failure to pay the annual license or renewal fee.

(3) The director may summarily suspend a license issued under this chapter if the director finds that a direct seller is operating under conditions that constitute an immediate danger to public health or if the director is denied access to the records, vehicles, food handling areas, refrigeration equipment, and product packaging used by

a direct seller where the access was sought for the purposes of enforcing or administering this chapter.

[Statutory Authority: RCW 15.30.120, 69.07.020, 69.10.055, and 16.49.025. WSR 20-17-020, § 16-130-060, filed 8/6/20, effective 9/6/20. Statutory Authority: RCW 69.04.345 and chapter 34.05 RCW. WSR 14-23-053, § 16-130-060, filed 11/17/14, effective 12/18/14.]